IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 19TH JULY 2007 / 28TH ASHADHA 1929

RCRev..No. 232 of 2007

RCA.6/2006 of RENT CONTROL APPELLATE AUTHORITY, NORTH PARAVUR
RCP.21/2004 of RENT CONTROL COURT, ALUVA

.....

REVISION PETITIONER/APPELLANT/RESPONDENT:

K.M.JOSEPH, PROPRIETOR,
MASQLIN TAILORS,
SUB JAIL ROAD, ALUVA.

BY ADV. SRI.A.VIJAYAKUMAR
SRI.A.N.SANTHOSH

RESPONDENT/RESPONDENT/PETITIONER:

ALIYAR, S/O MOHAMMED,
KAMPAYIL KUDIYIL,
ERUMATHALA, ALUVA.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 19/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 232 of 2007

ORDER

Balachandran, J.

The petitioner tenant, faced with an order of eviction under Section 11(2)(b) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act'), has preferred this revision. The respondent/landlord filed R.C.P.No.21/04 before the Rent Control Court, Aluva seeking for an order of eviction of the petitioner/tenant from the scheduled building under Sections 11(2)(b) and 11(8) of the Act. The claim for eviction under Section 11(8) of the Act was rejected by the Rent Control Court, but, eviction was ordered under Section 11(2)(b) of the Act. The petitioner/tenant filed R.C.A.No.6/06 before the Rent Control Appellate Authority, North Parur, assailing the order of eviction passed under Section 11(2)(b) of the Act and the respondent/

landlord filed cross appeal, assailing rejection of the claim for eviction under Section 11(8) of the Act. The appellate authority dismissed both the Rent Control Appeal and the cross appeal, whereby the order of eviction passed by the Rent Control Court under Section 11(2)(b) of the Act has been confirmed.

2. It is urged before us by the learned counsel for the petitioner/tenant that the tenant, who is conducting a tailoring shop in the scheduled building, has invested amounts for conversion of the electric connection into a three phase one and that the expenses incurred on that score has to be set off against the arrears of rent. There is absolutely no merit in the argument so advanced. If at all the tenant wanted added facility of three phase connection and he has obtained it at his own expense, without the consent of the landlord, he cannot claim adjustment of any such amount as against the rents in arrears. It is not disputed

that the rents at the rate of Rs.800/- per month is in arrears from April 1998 onwards. Therefore, the rents up to 30.6.2007 itself comes to Rs.88,800/-. There is absolutely no merit in this revision and this revision deserves only to be dismissed.

3. Finally, it is urged by the counsel for the petitioner that some time be granted to the petitioner to surrender vacant possession of the scheduled building to the respondent/landlord. The request so made deserves to be considered favourably, but on conditions only.

In the result, we dismiss this Rent Control Revision. But, at the same time, we grant the petitioner time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlord on the following conditions:

i. that he shall deposit the entire arrears of rent up to 30.6.2007, amounting to Rs.88,800/- with interest thereon at 6% per annum, in the execution court with a detailed statement as to its

correctness within three weeks from today.

ii. that he shall file an affidavit before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that he will surrender vacant possession of the scheduled building to the respondent/landlord positively on or before 31.12.2007 and that he will continue to pay the future monthly rents on the due dates itself till he actually surrenders vacant possession of the scheduled building to the respondent/landlord and

iii. that in case the petitioner fails to comply with the above conditions, he shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against him.

Registry shall communicate a copy of this order to the respondent/landlord at the expense of the

petitioner, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlord.

(J.B.Koshy, Judge)

19th July, 2007

(K.P.Balachandran, Judge)

tkv